

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

ANDREW BARKSDALE

PLAINTIFF

v.

CAUSE NO. 1:17CV108-LG-RHW

RON WOODALL, ET AL.

DEFENDANTS

**ORDER ADOPTING REPORT AND RECOMMENDATION
AND DISMISSING CASE FOR FAILURE TO OBEY COURT ORDER**

This cause comes before the Court on the [54] Report and Recommendation of United States Magistrate Judge Robert H. Walker entered in this cause on July 16, 2018. According to Magistrate Judge Walker's review of the procedural history of this case, the plaintiff twice failed to appear at a duly noticed *Spears/Omnibus* hearing. The hearing had been rescheduled after the plaintiff notified the Court that he had missed the first hearing date because of a medical problem. Notice of the rescheduled July 16, 2018 hearing was mailed to the plaintiff's address of record on April 2, 2018. He contacted the Court on July 9 to request that the hearing be continued again because he had a doctor's appointment on July 20th. Since an appointment four days after the hearing would not cause a conflict for the plaintiff, the Court declined to continue the hearing. The plaintiff did not appear at the July 16 hearing, and Magistrate Judge Walker now recommends that this case be dismissed for the plaintiff's failure to comply with the order of the Court. The copy of the Report and Recommendation mailed to the plaintiff by certified mail was received on July 23, 2018. (Acknowledgment, ECF No. 55.)

Because the plaintiff has not objected to Magistrate Judge Walker's

recommendation that this case be dismissed, the Court need only review the Report and Recommendation and determine whether it is either clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). After having reviewed the Report and Recommendation and the record in this case, the Court finds that the Magistrate Judge's conclusion is neither clearly erroneous nor contrary to law. Accordingly, it will be adopted by this Court, and plaintiff's case dismissed.

IT IS THEREFORE ORDERED AND ADJUDGED that the [54] Report and Recommendation of United States Magistrate Judge Robert H. Walker entered in this cause on July 16, 2018 should be, and the same hereby is, adopted as the finding of this Court.

IT IS FURTHER ORDERED AND ADJUDGED that the plaintiff's claims are **DISMISSED** without prejudice pursuant to FED. R. CIV. P. 41(b) for failure to obey the order of the Court.

SO ORDERED AND ADJUDGED this the 14th day of August, 2018.

s/ *Louis Guirola, Jr.*

LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE